

REMARKS

The above-referenced application was filed with claims 1-20. In the outstanding office action, a minor antecedent basis issue was raised with respect to claim 7, while claims 1-20 were rejected as anticipated based on either of two references. By way of this amendment, claim 7 has been amended to overcome the antecedent basis issue, while claims 1 and 16 have been amended to more clearly define the pending application over the cited art. Accordingly, claims 1-20 remain pending and at issue.

First, with respect to the antecedent basis issue, claim 7 was rejected under 35 U.S.C. §112, second paragraph as indefinite for failing to provide antecedent basis for the limitation "the face plate". Accordingly, claim 7 has been amended to now depend from claim 6, thus providing for proper antecedent basis. Applicants therefore respectfully submit that the rejection of claim 7 should be withdrawn.

Turning to the prior art rejections, claims 1-20 have been rejected under 35 U.S.C. §102(b) as being anticipated by Fayerman et al., U.S. Patent No. 6,394,795. Applicants have amended claims 1 and 16 to more clearly differentiate the pending subject matter over cited art, and submit that previously filed independent claim 12 already included subject matter clearly not anticipated by the Fayerman et al. reference.

More specifically, Applicants respectfully submit that Fayerman et al. fails to disclose each and every element of the pending claims and therefore submits that the anticipation rejection must fail.¹ Claims 1 and 16 have been amended to specify, *inter alia*, that the protective chamber is downstream relative to, and spaced away from, the burner. Fayerman fails to disclose such elements. The Examiner argues that Fayerman discloses a duct 12, a burner 18, and conveniently unnumbered "gas manifold" and baffles "22," which form a protective chamber "22." However, clearly Fayerman et al. does not disclose a duct 12 such as the duct work 20 of the pending application and readily understood by those with skill in the art as the type of structure provided by HVAC vendors to carry heated and cooled air through a building. However, notwithstanding this discrepancy, the Examiner is entitled

¹ Anticipation under 35 USC §102 requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention. "*Rockwell International Corp. v. United States* 47 USPQ2nd 1027 (Fed. Cir. 1998).

to give claim elements their broadest interpretation and cite elements in a reference purporting to set forth that structure. However, the Examiner can then not use that same cited element to set forth additional claim limitations. For example, the manifold of Fayerman is in fact the element 12 which the Examiner refers to as a duct 12. Accordingly, depending on which element of Fayerman he would like to correspond to the claim limitations, one of the three claim limitations: duct, burner, gas manifold is not disclosed by Fayerman et al. This point is highlighted by the Examiner's convenient failure to provide a reference numeral with respect to the gas manifold of Fayerman et al. Moreover, the Examiner then compounds this error by arguing that the baffles and protective chamber of the claim are identified by element 22 of Fayerman et al. Clearly, the Examiner cannot use a single element and a reference to the note two separate claim limitations. Finally, above and beyond these discrepancies, the applicants have further amended the claim to more clearly define its subject matter by stating that its protective chamber is separate from the burner. Clearly, even if the Examiner wishes to argue that the baffles 22 form a protective chamber 22, such a chamber 22 is not separated from the burner as is now claimed. Accordingly, applicants respectfully submit that the anticipation rejection of claims 1 and 16, and their respective dependents 2-11 and 17-20 should be withdrawn.

With respect to claim 12, applicants have not amended the subject matter as it even more clearly differentiates over Fayerman et al. More specifically, the burner assembly of claim 12 not only specifies an air duct, but an interior wall expanding across the air duct which includes at least three openings, the first opening being an interior of the wall, and the second and third openings flanking the wall. The Examiner does not even address this claim limitation in the office action, however, even if he does, he will find that Fayerman et al. does not disclose a duct, much less an interior wall spanning the duct having the three specified openings of claims 12. Accordingly, applicants respectfully submit that claims 12, and its dependent claims 13-15 are in condition for allowance and respectfully request same.

With respect to the second anticipatory reference, Creuz, U.S. Patent No. 3,881,863, applicants respectfully submit that the above-discussed claim limitations clearly differentiate the pending subject matter over its teachings as well. More specifically, claims 1 and 16 have been amended to specify a protective chamber which is separate and spaced from the combustion chamber. The purported protective chamber 31 of Creuz, as clearly

seen in its figures, is directly adjacent to and in contact with the baffle plate 16a. Thus, the "separate and spaced-from" limitation is not met. With respect to claim 12, again this claim is not addressed by the Examiner, and again the interior wall and the unique three opening limitation of claim 12 is not set forth by Creuz. In light of this, applicants respectfully submit that the anticipation rejection of the pending claims based on Creuz should be withdrawn as well.

In light of all of the foregoing, applicants respectfully submit that claims 1-20 are in condition for allowance and respectfully request same. Should the Examiner have any questions, he is invited to telephone the undersigned.

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Respectfully submitted,

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